

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ROBERT RAY,)	
)	
Petitioner,)	
v.)	Case No. 4:23-cv-01466-SEP
)	
ILLINOIS DEPARTMENT OF)	
CHILDREN AND FAMILY SERVICES,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

Before the Court is pro se Petitioner Robert Ray’s petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition was not filed on a Court-provided form. *See* E.D. Mo. L.R. 2.06(A). Petitioner also has not paid the filing fee or filed a motion to proceed *in forma pauperis*.¹ *See* E.D. Mo. L.R. 2.01(B)(1). Petitioner will be given an opportunity to refile his documents properly, taking into consideration the contents of this Memorandum and Order.

It appears that Petitioner, a citizen of Arkansas, is bringing an action in the United States District Court for the Eastern District of Missouri about a state-court custody determination made by the Illinois Department of Children and Family Services in Madison County, Illinois, involving three of his minor children.² If Petitioner is seeking review of an Illinois state-court judgment, the petition will be dismissed because the Court lacks subject-matter jurisdiction to engage in appellate review of state court decisions. *Postma v. First Fed. Sav. & Loan of Sioux City*, 74 F.3d 160, 162 (8th Cir. 1996).

The Court also lacks jurisdiction over cases involving divorce and child custody under the domestic-relations exception to federal-court jurisdiction. *See Ankenbrandt v. Richards*, 504 U.S. 689, 703 (1992). State courts have exclusive jurisdiction over those matters. *Id.* at 703-04. “The whole subject of the domestic relations of husband and wife, parent and child,

¹ Petitioner’s application for writ seeks discharge of his children to his custody without cost. This is not a sufficient means to seek *in forma pauperis* status. Petitioner must file a motion seeking *in forma pauperis* status, which must be on a fully filled-out Court-provided form.

² Under Eastern District of Missouri Local Rule 2.17, parties shall refrain from including, or shall partially redact where inclusion is necessary, the names of minor children. If Petitioner must refer to his minor children in his amended petition, he must refer to them by their initials.

belongs to the laws of the states, and not to the laws of the United States.” *In re Burrus*, 136 U.S. 586, 593-94 (1890); *see also Kahn v. Kahn*, 21 F.3d 859, 861 (8th Cir. 1994) (“The domestic relations exception . . . divests the federal courts of jurisdiction over any action for which the subject is a divorce, allowance of alimony, or child custody.” (internal citation omitted) (citing *Barber v. Barber*, 62 U.S. 582, 584 (1859); *Ankenbrandt*, 504 U.S. at 703)). Therefore, if Petitioner is attempting to involve the Court in a family-court matter or an issue of child custody, his petition will be dismissed for lack of jurisdiction.

Even if the Court has jurisdiction over Petitioner’s claims, the Eastern District of Missouri may be the wrong venue to bring Petitioner’s action because he is contesting a judgment in Madison County, Illinois. If Petitioner amends his petition, the Court will evaluate whether venue is proper. If it finds that venue is not proper in the Eastern District of Missouri, the Court may dismiss the action or transfer it to the United States District Court for the Southern District of Illinois pursuant to 28 U.S.C. § 1406(a).

Accordingly,

IT IS HEREBY ORDERED that the Clerk shall mail to Petitioner a copy of the Court’s “Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241” form.

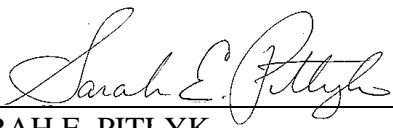
IT IS FURTHER ORDERED that the Clerk shall mail to Petitioner a copy of the Court’s “Motion to Proceed in Forma Pauperis and Affidavit in Support—Habeas Cases” form.

IT IS FURTHER ORDERED that Petitioner shall file an amended petition on the Court-provided form **within twenty-one (21) days** of the date of this Order. Petitioner is advised that his amended petition will take the place of his original petition and will be the only pleading that the Court will review. Petitioner may refer to his minor children only by their initials in the amended petition.

IT IS FURTHER ORDERED that Petitioner shall either pay the \$5.00 filing fee or submit a motion to proceed *in forma pauperis* on the Court-provided form **within twenty-one (21) days** of the date of this Order.

IT IS FINALLY ORDERED that if Petitioner fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice.

Dated this 29th day of November, 2023.



SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE